IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 12834 of 1994

Between:

The Management of Hindustan Aeronautics Ltd.,

Rep. by General Manager
Balanagar, Hyderabad-42

..... PETITIONER

AND

1 Industrial Tribunal-I, Rep. by its Presiding Officer,
Hyderabad
2 Sri Raza Ali Mirza Rep. by the General Secretary,

H.A.L., Workers Union , H.A.L. Township, Hyderabad-42

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or a Writ particularly one in the Nature of Writ of Certiorari after calling for the records from the 1st respondent and quash the award in I.D.No.105/88, dt: 8-2-94.

Counsel for the Petitioner:MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None appeared.

The Court made the following :

O R D E R:

This Writ Petition is filed challenging the award passed by the Industrial Tribunal, Hyderabad in I.D.No.105 of 1988, dated 08-02-1994.

2. The Management of the Hindustan Aeronautics Limited is the writ petitioner in this case. The Government of Andhra Pradesh referred the following matters for adjudication in G.O.Rt.552 Women's Development, Child Welfare and Labour (Lab-I) Department, dated 31-10-1988 :-

> 1. Whether the Management of H.A.L., Hyderabad Division was justified in reverting Sri Raza Ali Mirza, Staff No.0507 from the category of Assistant Supervisor to the category of Senior Clerk with effect from 24-05-1986 in the circumstances of the case and if not
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> 2. What relief the workmen is entitled to?

3. The case of the workman-2nd respondent is that he was initially appointed as Clerk-cum-Typist on 12-01-1967. Thereafter, he was promoted as Typist 'A' with effect from 22-03-1968. He was again promoted to the post of Senior Clerk on 15-04-1978. While the 2nd respondent was working as a Senior Clerk of Army Project, he was promoted as Assistant Supervisor (Army Project) with effect from 14-06-1985 on Time Scale Promotion. However, the Management passed an order dated 24-05-1986 reverting him to the post of Senior Clerk without following the procedure or without conducting any enquiry. Therefore, the order was sought to be set aside.

4. The Management filed counter resisting the claim of the workman-2nd respondent. It is stated that the workman-2nd respondent was promoted to the post of Assistant Supervisor and he was put on probation. During the period of probation, he never worked satisfactorily and he went on leave and he was absent for several days. It is also the case of the Management that even though the extension was made on 30-11-1985, still he could not rectify the omissions. Therefore, the probation was terminated. Consequently, he was sent back to his original post of Senior Clerk. Therefore, it is prayed for dismissal of the reference.

5. Before the Tribunal, the evidence was let in. One witness was examined as W.W.1 and Exs.W1 to W19 were marked for the workman-2nd respondent. For the Management, one witness was examined as R.W.1 and Exs.M1 to M8 were marked.

6. The Tribunal, on the basis of the proceedings issued by the company on 30-11-1985, held that the order of reversion is illegal and bad in law and the Management was directed to pay the difference of wages to the workman-2nd respondent.

7. It is the contention of the learned counsel for the Management that the workman-2nd respondent was put on probation and unless he completes the probation satisfactorily, he is not entitled to the regularization of the post. It is further contended that in the instant case, he did not perform his duties satisfactorily and he was absent on several occasions even though the probation was extended and therefore, there was no option left to the Management except to terminate the probation of the workman-2nd respondent and revert him back to his original post.

8. Even though notices were served, none appeared for the respondents.

Hence, the matter is heard on merits.

9. The matter relates to reversion of the employee with effect from 25-04-1996. It is the case of the Management that reversion is on account of unsatisfactory completion of probation and therefore, the Management is entitled to terminate the probation. It is also seen from the exhibits marked that the performance sheet was being furnished to the workman-2nd respondent from time to time, which shows that his performance was not upto the mark. It is not in dispute that the Management is entitled to keep the workman under probation and if it finds that the performance of the workman-2nd respondent is not satisfactory, he is liable to be reverted. In the instant case, admittedly the workman-2nd respondent has not discharged his duties properly and he was found to be absent without leave and his performance was noted as below average. Therefore, it cannot be said that the Management is not entitled to terminate the probation even during the extended period of probation.

10. Under those circumstances, I am of the considered view that the finding of the Tribunal that the reversion is bad, is not based on proper appreciation of the material available on record, and the award of the Tribunal is not sustainable in law.

11. Accordingly, the Writ Petition is allowed by setting aside the order dated 08-02-1994. No costs.

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G.BIKSHAPATHY, J

Dated: 23-12-2004

Prv/Sj

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Cief Justice on this

Thursday, the Twenty Third day of December, Two thousand and four.

REGISTRAR

To

1 The Presiding Officer,

Industrial Tribunal-I,
Hyderabad.
2 Two CCs to G.P. for Labour, High Court of A.P.,

Hyderabad (OUT).

3 Two CD copies.